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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,066	09/15/2003	Robert S. Hines JR.		2048
7590	06/02/2004		EXAMINER	
Donald W. Spurrell P.O. Box 970 Johnson City, TN 37605			YEUNG, JAMES C	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/663,066	HINES, ROBERT S.	
	<b>Examiner</b>	<b>Art Unit</b>	
	James C Yeung	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 15 September 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 11-20 is/are allowed.
- 6) Claim(s) 1-10 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Double Patenting***

1. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

2. Claims 1-10 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-10 of copending Application No. 10/280404. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 112***

3. Claims 5 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- In claim 5, there is no proper antecedent basis for "said heat sink" in line 3.
- In claim 10, there is no proper antecedent basis for "said steam generator means" in lines 1-2.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Vegh. The structure as claimed is fully anticipated by Vegh.

In particular, Vegh shows in Figs. 3-4 an oven construction comprising first wall means (16) forming a substantially closed oven cabinet, second wall means (42,46,48) forming a substantially closed oven cavity (20) having an upper portion and a lower portion, HTA supply means (6)) mounted in the lower portion of the cavity means (20) for generating a rising HTA flow within the cavity means, and air flow outlet means (62) formed thru a lower section of the second wall means, whereby the HTA from the supply means (60) will rise into the upper portion of the cavity means (20) and then as it becomes cooler will gravitate downwardly into the lower portion of the cavity means (20) and exit thru the outlet means (62).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (Japan Pat. 55-126742) in view of either Vegh or Martinez.

Sato discloses the invention substantially as claimed. In particular, Sato shows in Fig. 2 an oven construction comprising: an oven cavity; a steam generating means (at 8) mounted within the oven cavity; water inlet means (11); heat sink means (8); steam outlet means (10); water reservoir means (12); water feed means (at 11) passing thru first and second wall means (1,13) of the oven cavity having one end connected to the reservoir means (12) and having its other end juxtaposed the inlet means (11). However, Sato does not disclose that the air flow outlet means (not numbered) is formed thru a lower section of the second wall means.

Vegh shows in Figs. 3-4

Vegh shows in Figs. 3-4 an oven construction comprising first wall means (16) forming a substantially closed oven cabinet, second wall means (42,46,48) forming a substantially closed oven cavity (20) having an upper portion and a lower portion, HTA supply means (6) mounted in the lower portion of the cavity means (20) for generating a rising HTA flow within the cavity means, and air flow outlet means (62) formed thru a lower section of the second wall means, whereby the HTA from the supply means (60) within the oven cavity prior to discharge of the HTA therefrom, will rise into the upper portion of the cavity means (20) and then as it becomes cooler will gravitate downwardly into the lower portion of the cavity means (20) and exit thru the

outlet means (62). This particular arrangement shown by Vegh is used for the purpose of forcing HTA to travel longer residence path

Martinez shows in Fig. 2 an oven construction comprising a closed oven cavity (61b), an upper portion and a lower portion, HTA supply means (54) mounted in the lower portion of the cavity means (61b) for generating a rising HTA flow within the cavity means (61b), and air flow outlet means (62) formed thru a lower section of the oven cavity (61b) whereby the HTA from the supply means (54) will rise into the upper portion of the cavity means (61b) and then as it becomes cooler will gravitate downwardly into the lower portion of the cavity means (20) and exit thru the outlet means (52). This particular arrangement shown by Martinez is used for the purpose of forcing HTA to travel longer residence path within the oven cavity prior to discharge of the HTA therefrom.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to position the air flow outlet means of Sato in the manner as taught by either Vegh or Martinez in order to force HTA to travel a longer residence path within the oven cavity prior to discharge of the HTA therefrom.

In regard to claim 4, Martinez further shows in Fig. 3 that the air flow outlet means (52) is in air flow communication with air flow duct means (76) to vent gas combustion exhaust gases from the oven cavity.

It would have been obvious to having ordinary skill in the art at the time the invention was made to provide the air flow outlet means of Sato with air flow duct means such as taught by Martinez in order to vent combustion gases from the oven cavity.

8. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (Japan Pat. 55-126742) in view of either Vegh or Martinez as applied to claim 4 above, and further in view of Johansson.

Johansson teaches the use of a plurality of metal pieces (27, Fig. 3) for the purpose of providing a means to capture sufficient heat (col. 3, lines 52-67).

It would have been obvious to having ordinary skill in the art at the time the invention was made to provide the recess indention in the baffle means of Sato (at 8, Fig. 2) with a plurality of metal piece such as taught by Johansson in order to provide a mass to capture sufficient heat.

9. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (Japan Pat. 55-126742) in view of either Vegh or Martinez as applied to claim 1 above, and further in view of Sham.

Sham teaches the use of an electrical heating element (18, Fig. 5) for the purpose of generating a rising HTA flow within a closed oven cavity.

It would have been obvious to having ordinary skill in the art at the time the invention was made to modify the oven construction of Vegh such that the HTA supply means is generated by an electrical heating element such as taught by Sham for the same purpose of generating a rising HTA flow with the closed oven cavity.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Robert is cited to show an electrical oven with steam generating means.

Ishii is cited to show a gas oven with steam generating means..

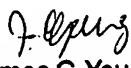
Body is cited to show the use of pneumatic control means to control the operation of a cooking oven.

Tanigawa is cited to show a damper mechanism for use in an oven.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James C Yeung whose telephone number is 703 308-1047. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JY  
May 20, 2004

  
James C. Yeung  
Primary Examiner